

REMARKS/ARGUMENTS

Claims 1, 2 and 6 are amended to correct informalities.

New claims 11, 12 and 13 are added to clarify that the diseases are inflammatory diseases. Support is found in the last five lines of paragraph [0001] of the published application.

The rejection of claims 6, 9 and 10 as obvious over the application of Bucher (WO 00/36915) in view of Pichereau et al. is respectfully traversed.

The claims recite an inhalation device for combating diseases caused by effects of suspended particulate on lung tissue, and/or cardiovascular diseases related thereto. As noted in the specification, suspended particulates, such as airborne particulates from air pollution, contribute to the development of lung and cardiovascular diseases, and can lead to inflammation. The inhalation device is claimed for combating such diseases. The device comprises ectoine, hydroxyectoine or a pharmacologically compatible salt thereof as active agent.

In contrast, Bucher is directed to the treatment of chronic obstructive pulmonary diseases such as cystic fibrosis, chronic bronchitis and ciliary dyskinesia. These diseases are characterized by the retention of mucous secretions in the lungs (see page 1, lines 21-23 of the published Boucher application), and have nothing to do with diseases resulting from suspended particulates or subsequent inflammation. Thus, Bucher is concerned with a completely different type of disease than the current claims.

The Pichereau reference merely describes ectoine as an ineffective osmoprotectant for salt-stressed bacterial cells. Pichereau does not describe any lung disease, any related cardiovascular disease, or any relationship of ectoine to such diseases.

Because neither Bucher nor Pichereau is directed to diseases resulting from suspended particulates, the combination of Bucher and Pichereau fails to describe the subject matter of the claims. As such, claims 6, 9 and 10 are not obvious.

Moreover, Bucher is concerned with non-absorbable osmotically active compounds which include an almost limitless number of substances. Indeed, Bucher provides extensive lists of exemplary salts, sugars, sugar alcohols and other osmotically active compounds, although nowhere is ectoine or hydroxyectoine listed. In addition, Pichereau points out that not all osmolytes have the same properties – for example, ectoine does not act as an osmolyte in *E. faecalis*. Because the number of osmotically active compounds is large, and osmolytic properties are different from one osmolyte to another, there is no reasonable expectation of success in combining the references. Similarly, there is no finite number of predictable solutions that can be applied to the preparation of an inhalation device, and thus the claims cannot be obvious under an “obvious to try” rationale.

Neither Bucher nor Pichereau is concerned with diseases resulting from suspended particles, and the number of possible solutions is too large and unpredictable in any case. For each of these reasons, claims 6, 9 and 10 are not obvious.

Because the foregoing arguments apply equally to inflammatory diseases resulting from suspended particulates, new claim 13 is similarly non-obvious.

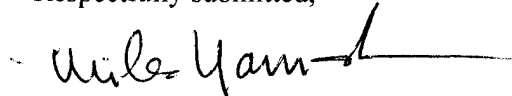
In view of the foregoing amendments and remarks, Applicant submits that the present application is in condition for allowance. A Notice of Allowance is therefore respectfully requested.

A Petition and fee for a three-month extension of time is being submitted herewith.

No additional fees are believed due. However, the Commissioner is hereby authorized during prosecution of this application and any related appeal, to charge any fees that may be required (except for patent issue fees required under 37 CFR §1.18) or to credit any overpayment of fees to Deposit Account No. 50-3881, under Order No. 7290-106.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Miles Yamanaka", followed by a horizontal line.

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